

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants: DINWIDDIE, Aaron Hal, et al.

Examiner: FEATHERSTONE, Mark D

Serial No: 10/031,151

Group Art Unit: 2623

Filed: January 14, 2002

Docket: RCA89642

For: METHOD AND APPARATUS FOR USING A SINGLE PASSWORD SET IN AN
INTEGRATED TELEVISION SYSTEM

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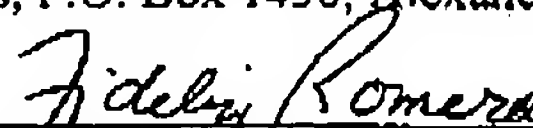
APPEAL BRIEF

Applicants appeal the status of Claims 1-15 and 17-20 as rejected in the non-final Office Action dated September 9, 2005, the final Office Action dated February 8, 2006, the non-final Office Action dated August 1, 2006, the final Office Action dated May 15, 2007, the Advisory Action dated August 22, 2007, the non-final Office Action dated December 26, 2007, the final Office Action dated May 27, 2008, and the Advisory Action dated August 13, 2008, pursuant to the Notice of Appeal filed on October 23, 2008 and submit this appeal brief.

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CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

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TABLE OF CONTENTS:

1. Real Party in Interest
2. Related Appeals and Interferences
3. Status of Claims
4. Status of Amendments
5. Summary of Claimed Subject Matter
6. Grounds of Rejection to be Reviewed on Appeal
7. Argument
 - A. Introduction
 - B. Whether Claims 1-4, 6, 7, and 10 are Unpatentable Under 35 U.S.C. §103(a)
With Respect To U.S. Patent Publication No. 2003/0079227 to Knowles in view
of U.S. Patent No. 6,519,412 to Kim and further in view of U.S. Patent No.
6,160,545 to Eyer
 - B1. Claims 1-4, 6, 7, and 10
 - C. Whether Claims 5, 8, 9, 11-15, and 17-20 are Unpatentable Under 35 U.S.C.
§103(a) With Respect To U.S. Patent No. 6,519,412 to Kim in view of U.S.
Patent Publication No. 2003/0079227 to Knowles and further in view of U.S.
Patent No. 6,160,545 to Eyer
 - C1. Claims 5, 8, 9, 11-15, and 17-20
 - C2. Claim 20
 - D. Conclusion

CUSTOMER NO.: 24498

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

PATENT

8. CLAIMS APPENDIX
9. RELATED EVIDENCE APPENDIX
10. RELATING PROCEEDINGS APPENDIX

CUSTOMER NO.: 24498

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

PATENT

1. Real Party in Interest

The real party in interest is THOMSON LICENSING S.A., the assignee of the entire right title and interest in and to the subject application by virtue of an assignment recorded with the Patent Office on February 1, 2006 at reel/frame 17099/0067.

CUSTOMER NO.: 24498

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

PATENT

2. Related Appeals and Interferences

None

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

3. Status of Claims

Claims 1-15 and 17-20 are pending. Claims 1-15 and 17-20 stand rejected and are under appeal. Claim 16 is cancelled.

A copy of the Claims 1-15 and 17-20 is presented in Section 8 below.

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

4. Status of Amendments

A Preliminary Amendment filed with the PTO on January 14, 2002 was entered. An Amendment filed with the PTO on December 7, 2005 in response to a non-final Office Action dated September 9, 2005 was entered. An Amendment filed with the PTO on May 8, 2006 in response to a final Office Action dated February 8, 2006 was entered. An Amendment filed with the PTO on November 27, 2006 in response to a non-final Office Action dated August 1, 2006 was not entered. An Amendment filed with the PTO on March 2, 2007 in response to a Notice of Non-Compliant Amendment dated February 20, 2007 was entered. An Amendment filed with the PTO on July 20, 2007 in response to a final Office Action dated May 15, 2007 was entered. An Amendment filed with the PTO on September 27, 2007 in response to an Advisory Action dated August 22, 2007 was entered. An Amendment filed with the PTO on March 7, 2008 in response to a non-final Office Action dated December 26, 2007 was entered. A Response filed with the PTO on July 17, 2008 in response to a final Office Action dated May 27, 2008 was entered. No Responses/Amendments were filed subsequent to the above Response filed on July 17, 2008. An Advisory Action dated August 13, 2008, to which this Appeal Brief is directed, is currently pending.

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

5. Summary of Claimed Subject Matter

Independent Claim 1 is directed to an “apparatus for integrating passwords for accessing programming from multiple programming providers” (Claim 1, preamble).

The subject matter of the first element (beginning with “a memory”) recited in Claim 1 is described, e.g., at: page 3, lines 24-25; and page 4, lines 19-22. Moreover, the subject matter of the first element of Claim 1 involves, e.g.: elements 116 and 130 of FIG. 1.

The subject matter of the second element (beginning with “removable memory”) recited in Claim 1 is described, e.g., at: page 3, lines 25-27. Moreover, the subject matter of the second element of Claim 1 involves, e.g.: elements 122 and 128 of FIG. 1.

The subject matter of the third element (beginning with “temporary memory”) recited in Claim 1 is described, e.g., at: page 3, lines 24-25; and page 4, lines 19-22. Moreover, the subject matter of the third element of Claim 1 involves, e.g.: elements 132 of FIG. 1.

The subject matter of the fourth element (beginning with “means for replacing”) recited in Claim 1 is described, e.g., at: page 3, lines 20-21 and 27-28. Moreover, the subject matter of the fourth element of Claim 1 involves, e.g.: element 112 of FIG. 1.

The subject matter of the fifth element (beginning with “wherein the apparatus”) recited in Claim 1 is described, e.g., at: page 3, lines 12-15. Moreover, the subject matter of the fifth element of Claim 1 involves, e.g.: elements 112 and 124 of FIG. 1.

Independent Claim 5 is directed to a “method for accessing programming from multiple programming providers in an integrated television system” (Claim 5, preamble).

The subject matter of the first element (beginning with “determining”) recited in Claim 5 is described, e.g., at: page 6, lines 13-14. Moreover, the subject matter of the first element of

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

Claim 5 involves, e.g.: element 304 of FIG. 3.

The subject matter of the second element (beginning with "if said access card is coupled") recited in Claim 5 is described, e.g., at: page 6, line 30 to page 7, line 4. Moreover, the subject matter of the second element of Claim 5 involves, e.g.: element 310 and 312 of FIG. 3.

The subject matter of the third element (beginning with "if said access card is not coupled") recited in Claim 5 is described, e.g., at: page 6, lines 18-21. Moreover, the subject matter of the third element of Claim 5 involves, e.g.: element 306 of FIG. 3.

Independent Claim 12 is directed to a "television apparatus" (Claim 12, preamble).

The subject matter of the first element (beginning with "a receiver") recited in Claim 12 is described, e.g., at: page 3, lines 7-10. Moreover, the subject matter of the first element of Claim 12 involves, e.g.: element 102 of FIG. 1.

The subject matter of the second element (beginning with "processing circuits") recited in Claim 12 is described, e.g., at: page 3, lines 20-24. Moreover, the subject matter of the second element of Claim 12 involves, e.g.: element 118 of FIG. 1.

The subject matter of the third element (beginning with "an access card interface") recited in Claim 12 is described, e.g., at: page 3, lines 18-20. Moreover, the subject matter of the third element of Claim 12 involves, e.g.: element 120 of FIG. 1.

The subject matter of the fourth element (beginning with "a controller") recited in Claim 12 is described, e.g., at: page 3, lines 20-21 and 27-28. Moreover, the subject matter of the fourth element of Claim 12 involves, e.g.: elements 112 and 114 of FIG. 1.

The subject matter of the fifth element (beginning with "a memory") recited in Claim 12 is described, e.g., at: page 3, lines 25-28; and page 6, line 13 to page 7, line 4. Moreover, the

CUSTOMER NO.: 24498

PATENT

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

subject matter of the fifth element of Claim 12 involves, e.g.: elements 116 and 132 of FIG. 1.

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

6. Grounds of Rejection to be Reviewed on Appeal

Claims 1-4, 6, 7, and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application Publication No. 2003/0079227 to Knowles (hereinafter "Knowles") in view of United States Patent No. 6,519,412 to Kim (hereinafter "Kim") and further in view of U.S. Patent No. 6,160,545 to Eyer (hereinafter "Eyer"). Claims 5, 8, 9, 11-15, and 17-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Knowles and further in view of Eyer.

The preceding rejections under 35 U.S.C. §103(a) are presented for review in this Appeal with respect to Claims 1-15 and 17-20, as argued with respect to independent Claims 1, 5, and 12.

Regarding the grouping of the claims, Claims 2-4, 6, 7, 10, and 19 stand or fall with Claim 1, Claims 8, 9, 11, and 20 stand or fall with Claim 5, and Claims 13-15 and 17-18 stand or fall with Claim 12, due to their respective dependencies. Moreover, in a separate argument, Claim 20 stands or falls by itself.

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

7. Argument

A. Introduction

In general, the present invention is directed to a method and apparatus for using a single password set in an integrated television system (Applicant's Specification, Title). As disclosed in the Applicant's specification at page 1, line 27 to page 2, line 3:

In many instances, a television viewer has the capability, through separate systems, to receive both terrestrial and satellite television programming. As such, the viewer that owns a television comprising a V-chip and subscribes to satellite programs is required to use separate satellite system and terrestrial system passwords for accessing the respective satellite and terrestrial television programming. This dual password utilization is not consumer friendly.

Therefore, there is a need for dynamically linking the satellite and terrestrial password systems such that only the passwords from one of these television systems are utilized to enable access to both systems.

Advantageously, the present principles provide an apparatus for integrating passwords for accessing programming from multiple programming providers (Claim 1), a method for accessing programming from multiple programming providers in an integrated television system (Claim 8), and a television apparatus (Claim 12).

It is respectfully asserted that independent Claims 1, 5, and 12 are each patentably distinct and non-obvious over the cited references in their own right. For example, the below-

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

identified limitations of independent Claims 1, 5, and 12 are not shown in any of the cited references, either taken singly or in any combination. Moreover, these claims are distinct from each other in that they are directed to different implementations and/or include different limitations. For example, Claim 1 is directed to an apparatus for integrating passwords for accessing programming from multiple programming providers, while Claim 5 is directed to a method for accessing programming from multiple programming providers in an integrated television system, and Claim 12 is directed to a television apparatus having different limitations than those recited in apparatus Claim 1. Accordingly, each of independent Claims 1, 5, and 12 represent separate features/implementations of the invention that are separately novel and non-obvious with respect to the cited prior art and to the other claims.

B. Whether Claims 1-4, 6, 7, and 10 are Unpatentable Under 35 U.S.C. §103(a) With Respect To U.S. Patent Publication No. 2003/0079227 to Knowles in view of U.S. Patent No. 6,519,412 to Kim and further in view of U.S. Patent No. 6,160,545 to Eyer

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art" (MPEP §2143.03, citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious" (MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

Knowles is directed to "multiple interactive electronic program guide system and methods" (Knowles, Title). In further detail, Knowles discloses the following in his Abstract:

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

A multiple Interactive Program Guide (IPG) system provides different television programming and different IPGs to several different users respectively. A single set-top box is capable of providing programming and scheduling data to several different television sets. Each of the different IPGs share a common database. Therefore, a first IPG being viewed by a first user can display data added or modified via a second IPG by a second user of the system. Furthermore, the data added or modified by the second user can influence the viewing rights of the first user. Also, all the competing and conflicting requests for limited resources, such as VCR scheduled recordings, will be brought to the users' attention and will be displayed by the system.

Kim is directed to an "apparatus and method for changing viewing restriction level in a parental control system for digital versatile disc player" (Kim, Title). In further detail, Kim discloses the following in his Abstract:

This invention provides an apparatus and method for changing viewing restriction level in a parental control system for reproduction of programs by means of entering into a mode for changing a previously set viewing restriction level, inputting password data, comparing the input password data with preset password data and allowing the viewing restriction level to be changed if both password data are the same, thereby preventing unauthorized changing of the

CUSTOMER NO.: 24498**PATENT****Attorney Docket No. RCA89642****Final Office Action Dated: May 27, 2008****Advisory Action Dated: August 13, 2008**

previously allowed restriction level and keeping adolescents or children from viewing programs that exceed the allowed level limit.

Eyer is directed to a "multi-regional interactive program guide for television" (Eyer, Title).

In further detail, Eyer discloses the following in his Abstract:

Interactive Program Guide (IPG) data for television is delivered to integrated receiver-decoders (IRDs) in a decoder population via, for example, a satellite network. The IPG data provides scheduling information for global and local programming services which are carried via the satellite network as well as another network such as a CATV network or a terrestrial broadcast network. Each IRD is assigned to an IPG region using unit addressing. At the IRD, IPG data is filtered so that only the global data and the region-specific data for the IRD's IPG region is retained and processed by the IRD. Channel map data is also delivered to the IRDs so that bundles of IRD data can be filtered out using firmware filtering to discard program sources that are not present in the channel map. The IRD data which is retained after filtering is used to provide scheduling information via an on-screen display. A preferred source may be designated when there are duplicative channels on the different networks.

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

Applicants submit that for the reasons discussed below the suggested combination fails to disclose or suggest each and every limitation of Claims 1-4, 6, 7, and 10, and that the suggested combination is improper in view of the teaching of the references.

B1. Claims 1-4, 6, 7, and 10

Claims 2-4, 6, 7, and 10 directly or indirectly depend from independent Claim 1. Thus, Claims 2-4, 6, 7, and 10 include all the limitations of Claim 1.

It is respectfully asserted that none of the cited references, either taken singly or in combination, teach or suggest the following limitations of Claim:

a memory for storing a first password associated with a first programming provider that directly delivers programming to the apparatus via a first transmission media;

removable memory storing a second password associated with a second programming provider that directly delivers programming to the apparatus via a second transmission media distinct from the first transmission media;

temporary memory temporarily storing said first password during use; and
means for replacing, responsive to an insertion of the removable memory, said first password in said temporary storage with said second password to enable said apparatus to allow access to programming from said first and second programming providers,

wherein the apparatus is disposed locally with respect to a consumption location of the programming by a user

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

Hence, Claim 1 recites that the first password in the temporary storage (i.e., the temporary memory) is replaced with the second password responsive to an insertion of the removable memory. None of the cited references teach or suggest this limitation.

The Examiner has admitted that "Knowles fails to explicitly disclose a removable memory for storing said second password or replacing, responsive to an insertion of the removable memory, password in temporary storage with second password" (Office Action dated May 27, 2008, p. 6).

However, in citing Kim as disclosing the preceding limitation, the Examiner has failed to show all of the preceding limitations in Kim. For example, on page 6 of the Office Action dated May 27, 2008, the Examiner continues "In analogous art, Kim discloses a removable memory (i.e. a smart card) for storing password data for viewing restriction purposes (column 4, lines 42-61 and column 6, lines 26-47 - Kim particularly describes an embodiment in which a smart card (removable memory) is inserted and the password data stored on the card is inputted)." Further, the Examiner provides the following support for the suggested combination, "Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knowles' system to include a removable memory, as taught by Kim, for the benefit of avoiding the need for a 'password input menu' by using a removable memory (i.e. a smart card) that has the password data therein, so as to input the password data by a card reader in response to inserting the card (column 7, lines 57-62).

However, neither simply inputting password data from a smart card nor obviating the need for a password input menu correspond to replacing the first password in the temporary storage (i.e., the temporary memory) with the second password responsive to an insertion of the removable memory as recited in Claim 1.

CUSTOMER NO.: 24498**PATENT****Attorney Docket No. RCA89642****Final Office Action Dated: May 27, 2008****Advisory Action Dated: August 13, 2008**

Moreover, the portions of Kim cited by the Examiner disclose "memory 202 for storing preset password data which functions as reference data for allowing the viewing restriction level to be changed" (Kim, col. 4, lines 56-58) and means for inputting password data may be a smart card (Kim, col. 6, lines 32-35). However, in Kim, the preset password data (i.e., REFERENCE DATA) stored in memory 202 is NOT REPLACED with the password data on the smart card, but is instead COMPARED with the same to determine if the user is permitted to change a viewing restriction level (see, e.g., Kim, FIG. 4; col. 6, lines 46-47; col. 7, lines 19-21; col. 8, lines 1-2, and lines 7-9).

Hence, Kim does not cure the deficiencies of Knowles, and does not disclose all of the above reproduced limitations of Claim 1.

Eyer also does not cure the deficiencies of either Kim and/or Knowles, and is silent with respect to the above reproduced limitations of Claim 1.

Moreover, it is respectfully asserted that none of the cited references, either taken singly or in any combination, teach or suggest, *inter alia*, "a first password associated with a first programming provider ... a second password associated with a second programming provider" as recited in Claim 1 (and hence, also Claims 2-4, 6, 7, and 10).

In contrast to the preceding limitations of Claim 1, Knowles discloses, as cited by the Examiner, "password for a young child - paragraph 0072, lines 1-5" (Office Action dated May 27, 2008, p. 4) and "an IPG that is particular to a first programming provider - paragraph 0071, line 1 - paragraph 0074, line 9. For example, the young child can access LOCL 701 but not HBO2 201" (Office Action dated May 27, 2008, p. 4) and "older teenager's password-paragraph 0072, lines 1-4" (Office Action dated May 27, 2008, p. 5) and "an IPG that is specific to a second programming, i.e., HBO-paragraph 0073, line 1-paragraph 0074, line 9" (Office Action dated May 27, 2008, p. 5).

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

However, the descriptions of the passwords for the young child and teenager at paragraph 0072 of Knowles make no mention whatsoever of a first programming provider or a second programming provider, let alone any association with the same. Moreover, the Applicant respectfully asserts that an IPG that is specific to a first programming provider or a second programming, as asserted by the Examiner, does not correspond to as password. An IPG is an interactive program guide and not a password.

At page 3 of the Office Action dated May 27, 2008, the Examiner further states “[a]s an example, the first programming provider is associated with LOCL, while the second programming provider is associated with HBO2. Each of these programming choices could have a distinct password associated with them, and as one of ordinary skill in the art would recognize, each of these channels originates from a separate provider” (emphasis added). In rebuttal to the preceding, the Applicants respectfully assert that programming providers as defined in the Applicants’ specification refers to sources of programming such as satellite programming providers versus cable programming providers, and not to a particular network such as HBO (see, e.g., Applicants’ specification, page 2, lines 8-9). Moreover, the use of the word “could” in the preceding reproduced statement by the Examiner shows that Knowles does NOT disclose this limitation.

Moreover, cited paragraph [0074] of Knowles (repeatedly cited by the Examiner, including in the Advisory Action dated August 13, 2008) actually states the following:

IPGs can also be customized by and be particular to specific users. A specific user identifies him-/herself by entering a user name and the associated password into an appropriate field in a displayed screen when a TV receiver is

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

turned on. Once the user is identified, the respective IPG is displayed for the identified user. In the alternative, the IPGs are particular to each source, i.e., no matter which user is identified, a specific IPG is displayed depending on which TV set is turned on (emphasis added).

Hence, the often cited portion [paragraph [0074]] of Knowles appears to equate different sources to different televisions and, thus, does not teach or even remotely suggest "a first password associated with a first programming provider ... a second password associated with a second programming provider" as recited in Claim 1.

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art" (MPEP §2143.03, citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).

Thus, it is respectfully asserted that none of the cited references, either taken singly or in any combination, teach or suggest the above recited limitations of Claim 1.

Further, it is respectfully asserted that the proposed combination of the prior art would change the principle of operation of the prior art invention being modified, and this constitute an improper combination under MPEP §2143.01.

For example, as set forth in MPEP §2143.01.VI:

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie*

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959) (Claims were directed to an oil seal comprising a bore engaging portion with outwardly biased resilient spring fingers inserted in a resilient sealing member. The primary reference relied upon in a rejection based on a combination of references disclosed an oil seal wherein the bore engaging portion was reinforced by a cylindrical sheet metal casing. Patentee taught the device required rigidity for operation, whereas the claimed invention required resiliency. The court reversed the rejection holding the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate." 270 F.2d at 813, 123 USPQ at 352.).

Here, as admitted by the Examiner, Knowles performs **merging of data from various sources at the data center headend in preparation to be sent to the network operators** (see, e.g., page 3 of the Final Office Action mailed May 15, 2007). In direct and opposing contrast, Eyer, as relied upon by the Examiner, allegedly discloses "**directly delivering programming to the apparatus** via a first transmission media ... and **directly delivering programming to the apparatus** via a second transmission media distinct from the first transmission media" (Office Action dated May 27, 2008, p. 7).

Hence, the combination results in a substantial reconstruction and redesign of the elements shown in Knowles or Kim as well as a change in the basic principle under which the Knowles or

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

Kim construction was designed to operate. For example, substantial changes to the overall infrastructure of either Knowles or Kim would be required in order to combine one with the other, given their completely opposing approaches to providing programming to a point of consumption, which ultimately imposes differences between Knowles and Kim from the point of consumption at least all the way back to the headend.

Hence, it is respectfully asserted that the suggested combination of Knowles and Eyer is improper under MPEP §2143.01.

Also, as set forth in MPEP 2143, "To establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings".

A prior art reference must be considered in its entirety, i.e., as a whole, INCLUDING PORTIONS THAT WOULD LEAD AWAY FROM THE CLAIMED INVENTION. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed Cir. 1983), *cert. denied*, 469 U.S. 851 (1984) (emphasis added) (*see also*, MPEP §2141.02)). Here, Knowles teaches away from a combination with Kim in view of the different approaches to merging of data for delivery to a user. Hence, such motivation to combine is lacking.

Hence, it is respectfully asserted that Knowles is not a proper reference, and its use in a combination against the pending claims is improper.

Thus, it is respectfully asserted that none of the cited references, either taken singly or in any proper combination, teach or suggest the above recited limitations of Claim 1 and, hence, also Claims 2-4, 6, 7, and 10 by virtue of their respective dependencies.

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

Accordingly, Claims 1-2-4, 6, 7, and 10 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above. Therefore, withdrawal of the rejection and allowance of Claims 1-2-4, 6, 7, and 10 is earnestly requested.

C. Whether Claims 5, 8, 9, 11-15, and 17-20 are Unpatentable Under 35 U.S.C. §103(a) With Respect To U.S. Patent No. 6,519,412 to Kim in view of U.S. Patent Publication No. 2003/0079227 to Knowles and further in view of U.S. Patent No. 6,160,545 to Eyer

The teachings of Knowles, Kim, and Eyer have been discussed herein above. For the reasons discussed below, applicants submit that the suggested combination fails to disclose or suggest each and every limitation, and that the suggested combination is improper in view of the teachings of the references.

C1. Claims 5, 8, 9, 11-15, and 17-20

Claim 19 directly depends from independent Claim 1, Claims 8, 9, 11, and 20 directly or indirectly depend from independent Claim 5, and Claims 13-15 and 17-18 directly or indirectly depend from independent Claim 12. Thus, Claim 19 includes all the limitations of Claim 1, Claims 8, 9, 11, and 20 include all the limitations of Claim 5, and Claims 13-15 and 17-18 include all the limitations of Claim 12.

It is respectfully asserted that none of the cited references, either taken singly or in combination, teach or suggest the following limitations of Claim 19 (with the following applicable to Claim 19 by virtue of its respective dependency from Claim 1):

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

a memory for storing a first password associated with a first programming provider that directly delivers programming to the apparatus via a first transmission media;

removable memory storing a second password associated with a second programming provider that directly delivers programming to the apparatus via a second transmission media distinct from the first transmission media;

temporary memory temporarily storing said first password during use; and
means for replacing, responsive to an insertion of the removable memory, said first password in said temporary storage with said second password to enable said apparatus to allow access to programming from said first and second programming providers,

wherein the apparatus is disposed locally with respect to a consumption location of the programming by a user

Moreover, it is respectfully asserted that none of the cited references, either taken singly or in combination, teach or suggest the following limitations of Claims 5, 8, 9, 11, and 20:

determining whether an access card is coupled to the integrated television system;

if said access card is coupled to the integrated television system,
processing a first password received from said access card to access programming directly delivered by said multiple programming providers to the integrated

CUSTOMER NO.: 24498**PATENT****Attorney Docket No. RCA89642****Final Office Action Dated: May 27, 2008****Advisory Action Dated: August 13, 2008**

television system via different transmission media such that each of the multiple programming providers uses a respective different one of the different transmission media to directly deliver the programming to the integrated television system; and

if said access card is not coupled to the integrated television system, processing a second password to access at least some of the programming delivered to the integrated television system via at least one of the transmission media and precludes access to programming delivered to the integrated television system via at least one other of the transmission media

Further, it is respectfully asserted that none of the cited references, either taken singly or in combination, teach or suggest the following limitations of Claims 12-15 and 17-18:

a memory for storing a first password associated with a first programming provider that directly delivers programming to the apparatus via a first transmission media;

removable memory storing a second password associated with a second programming provider that directly delivers programming to the apparatus via a second transmission media distinct from the first transmission media;

temporary memory temporarily storing said first password during use; and means for replacing, responsive to an insertion of the removable memory, said first password in said temporary storage with said second password to enable

CUSTOMER NO.: 24498**PATENT****Attorney Docket No. RCA89642****Final Office Action Dated: May 27, 2008****Advisory Action Dated: August 13, 2008**

said apparatus to allow access to programming from said first and second

programming providers,

wherein the apparatus is disposed locally with respect to a consumption

location of the programming by a user

Hence, Claim 19 (by virtue of its dependency from Claim 1) recites that the first password in the temporary storage (i.e., the temporary memory) is replaced with the second password responsive to an insertion of the removable memory. None of the cited references teach or suggest this limitation.

The Examiner has admitted that "Knowles fails to explicitly disclose a removable memory for storing said second password or replacing, responsive to an insertion of the removable memory, password in temporary storage with second password" (Office Action dated May 27, 2008, p. 6).

However, in citing Kim as disclosing the preceding limitation, the Examiner has failed to show all of the preceding limitations in Kim. For example, on page 6 of the Office Action dated May 27, 2008, the Examiner continues "In analogous art, Kim discloses a removable memory (i.e. a smart card) for storing password data for viewing restriction purposes (column 4, lines 42-61 and column 6, lines 26-47 - Kim particularly describes an embodiment in which a smart card (removable memory) is inserted and the password data stored on the card is inputted)." Further, the Examiner provides the following support for the suggested combination, "Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knowles' system to include a removable memory, as taught by Kim, for the benefit of avoiding the need for a 'password input menu' by using a removable memory (i.e. a smart card) that has the

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

password data therein, so as to input the password data by a card reader in response to inserting the card (column 7, lines 57-62).

However, neither simply inputting password data from a smart card nor obviating the need for a password input menu correspond to the feature of replacing the first password in the temporary storage (i.e., the temporary memory) with the second password responsive to an insertion of the removable memory as recited in Claim 19.

Moreover, the portions of Kim cited by the Examiner disclose "memory 202 for storing preset password data which functions as reference data for allowing the viewing restriction level to be changed" (Kim, col. 4, lines 56-58) and means for inputting password data may be a smart card (Kim, col. 6, lines 32-35). However, in Kim, the preset password data (i.e., REFERENCE DATA) stored in memory 202 is NOT REPLACED with the password data on the smart card, but is instead COMPARED with the same to determine if the user is permitted to change a viewing restriction level (see, e.g., Kim, FIG. 4; col. 6, lines 46-47; col. 7, lines 19-21; col. 8, lines 1-2, and lines 7-9).

Hence, Kim does not cure the deficiencies of Knowles, and does not disclose all of the above reproduced limitations of Claim 19. Further, Eyer also does not cure the deficiencies of either Kim and/or Knowles, and is silent with respect to the above reproduced limitations of Claim 19.

With respect to Claim 12, the Examiner has rejected the same by simply stating "Regarding claim 12, refer to the rejections of claims 1 and 5". However, Claim 12 (and hence, also Claims 13-15 and 17-18) includes limitations not recited in Claim 1, including, but not limited to, a receiver and processing circuits. While the Examiner has, in the Advisory Action, attempted to cure the deficient rejection by citing a portion of Knowles with respect to the receiver, the Examiner

CUSTOMER NO.: 24498

PATENT

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

has still failed to equate any specific portion of any of the references to, *inter alia*, the processing circuit recited in Claim 12. "All words in a claim must be considered in judging the patentability of that claim against the prior art" (MPEP §2143.03, citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). Hence, the Examiner has not set forth a prima facie rejection of Claim 12 (and hence, also Claims 13-15 and 17-18). Thus, it is respectfully asserted that the rejection of Claim 12 (and hence, also Claims 13-15 and 17-18) should be withdrawn on this basis alone.

With respect to Claims 19 and 12, it is respectfully asserted that none of the cited references, either taken singly or in any combination, teach or suggest, *inter alia*, "a first password associated with a first programming provider ... a second password associated with a second programming provider" as recited in Claim 1, or "a first password associated with the first programming provider" as recited in Claim 12.

In contrast to the preceding limitations of Claims 19 and 12, Knowles discloses, as cited by the Examiner, "password for a young child - paragraph 0072, lines 1-5" (Office Action dated May 27, 2008, p. 4) and "an IPG that is particular to a first programming provider - paragraph 0071, line 1 - paragraph 0074, line 9. For example, the young child can access LOCL 701 but not HBO2 201" (Office Action dated May 27, 2008, p. 4) and "older teenager's password-paragraph 0072, lines 1-4" (Office Action dated May 27, 2008, p. 5) and "an IPG that is specific to a second programming, i.e., HBO-paragraph 0073, line 1-paragraph 0074, line 9" (Office Action dated May 27, 2008, p. 5).

However, the descriptions of the passwords for the young child and teenager at paragraph 0072 of Knowles make no mention whatsoever of a first programming provider or a second programming provider, let alone any association with the same. Moreover, the Applicant

CUSTOMER NO.: 24498

PATENT

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

respectfully asserts that an IPG that is specific to a first programming provider or a second programming, as asserted by the Examiner in his rejection of Claims 5 and 12, does not correspond to as password. An IPG is an interactive program guide, that is, information regarding various programs carried by a particule provide, which may be displayed via tabular form, and not a password which allow a user to access certain programs or services.

At page 3 of the Office Action dated May 27, 2008, the Examiner further states “[a]s an example, the first programming provider is associated with LOCL, while the second programming provider is associated with HBO2. Each of these programming choices could have a distinct password associated with them, and as one of ordinary skill in the art would recognize, each of these channels originates from a separate provider” (emphasis added). In rebuttal to the preceding, the Applicants respectfully assert that programming providers as defined in the Applicants’ specification refers to sources of programming such as satellite programming providers versus cable programming providers, and not to a particular network such as HBO (see, e.g., Applicants’ specification, page 2, lines 8-9). Moreover, the use of the word “could” in the preceding reproduced statement by the Examiner shows that Knowles does NOT disclose this limitation.

Moreover, cited paragraph [0074] of Knowles (repeatedly cited by the Examiner, including in the Advisory Action dated August 13, 2008) actually states the following:

IPGs can also be customized by and be particular to specific users. A specific user identifies him-/herself by entering a user name and the associated password into an appropriate field in a displayed screen when a TV receiver is turned on. Once the user is identified, the respective IPG is displayed for the

CUSTOMER NO.: 24498

PATENT

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

identified user. In the alternative, the IPGs are particular to each source, i.e.,
no matter which user is identified, a specific IPG is displayed depending on
which TV set is turned on (emphasis added).

Hence, it would seem that the cited portion [paragraph [0074]] of Knowles is equating different sources to be different televisions and, thus, does not teach or even remotely suggest "a first password associated with a first programming provider ... a second password associated with a second programming provider" as recited in Claim 1.

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art" (MPEP §2143.03, citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).

Thus, it is respectfully asserted that none of the cited references, either taken singly or in any combination, teach or suggest the above recited limitations of Claims 19 and 12.

With respect to Claims 19, 5, and 12, it is respectfully asserted that the proposed combination of the prior art would change the principle of operation of the prior art invention being modified, and this constitutes an improper combination under MPEP §2143.01.

For example, as set forth in MPEP §2143.01.VI:

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959) (Claims were

CUSTOMER NO.: 24498

PATENT

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

directed to an oil seal comprising a bore engaging portion with outwardly biased resilient spring fingers inserted in a resilient sealing member. The primary reference relied upon in a rejection based on a combination of references disclosed an oil seal wherein the bore engaging portion was reinforced by a cylindrical sheet metal casing. Patentee taught the device required rigidity for operation, whereas the claimed invention required resiliency. The court reversed the rejection holding the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate." 270 F.2d at 813, 123 USPQ at 352.).

Here, as admitted by the Examiner, Knowles performs **merging of data from various sources at the data center headend in preparation to be sent to the network operators** (see, e.g., page 3 of the Final Office Action dated May 15, 2007). In direct and opposing contrast, Eyer, as relied upon by the Examiner, allegedly discloses "**directly delivering programming to the apparatus** via a first transmission media ... and **directly delivering programming to the apparatus** via a second transmission media distinct from the first transmission media" (Office Action dated May 27, 2008, p. 7).

Hence, the combination results in a substantial reconstruction and redesign of the elements shown in Knowles or Kim as well as a change in the basic principle under which the Knowles or Kim construction was designed to operate. For example, substantial changes to the overall

CUSTOMER NO.: 24498

PATENT

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

infrastructure of either Knowles or Kim would be required in order to combine one with the other, given their completely opposing approaches to providing programming to a point of consumption, which ultimately imposes differences between Knowles and Kim from the point of consumption at least all the way back to the headend.

Hence, it is respectfully asserted that the combination of Knowles and Eyer is improper under MPEP §2143.01.

Moreover, as set forth in MPEP 2143, "To establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings".

A prior art reference must be considered in its entirety, i.e., as a whole, INCLUDING PORTIONS THAT WOULD LEAD AWAY FROM THE CLAIMED INVENTION. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed Cir. 1983), *cert. denied*, 469 U.S. 851 (1984) (emphasis added) (*see also*, MPEP §2141.02)). Here, Knowles teaches away from the suggested combination of Kim in view of the different approaches to merging data for delivery to the user. Hence, such motivation to combine is lacking.

Hence, it is respectfully asserted that Knowles is not a proper reference, and its use in a combination against the pending claims is improper.

Thus, it is respectfully asserted that none of the cited references, either taken singly or in any proper combination, teach or suggest the above recited limitations of Claims 19 (by virtue of its dependency from Claim 1), 5 (and, hence, also Claims 8, 9, 11, and 20), and 12 (and hence, also Claims 13-15 and 17-18).

CUSTOMER NO.: 24498**PATENT****Attorney Docket No. RCA89642****Final Office Action Dated: May 27, 2008****Advisory Action Dated: August 13, 2008**

Accordingly, Claims 5, 8, 9, 11-15, and 17-20 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above. Therefore, withdrawal of the rejection and allowance of Claims 5, 8, 9, 11-15, and 17-20 is earnestly requested.

C2. Claim 20

It is respectfully asserted that none of the cited references, either taken singly or in a proper combination, teach or suggest the following limitations of Claim 20: "wherein the first password is a master password associated with a satellite transmission media and the second password is a master password associated with a terrestrial transmission media".

In contrast, and as admitted by the Examiner (see Final Office Action dated May 15, 2007, pp. 5 and 11), Knowles discloses a parent password (master password) and a child password, but not TWO MASTER PASSWORDS, each of the master passwords respectively associated with a corresponding one of the two types of transmission media, as essentially recited in Claim 20.

At page 3 of the Office Action dated May 27, 2008, the Examiner stated the following:

In the claim 1 rejection on page 3 of the office action, examiner points to the Knowles reference that teaches a first password associated with a terrestrial broadcast signal that provides local programming. On page 4 of the office action, examiner explains that Knowles further teaches a second password that is associated with a satellite provider to provide extended channels, such as HBO. Both of these passwords are 'master' passwords in that they provide access to the programming

CUSTOMER NO.: 24498**PATENT****Attorney Docket No. RCA89642****Final Office Action Dated: May 27, 2008****Advisory Action Dated: August 13, 2008**

they are associated with i.e. extended channels delivered via a satellite system or local channels associated with a terrestrial television system.

However, it is respectfully pointed out that the Examiner's position is inconsistent with regard to the term master password (see, e.g., p. 3 of the reference Office Action dated May 15, 2007, where the Examiner states "[t]herefore, when the parents enter their master password and the access level is at its highest, they have access to programming from said first and second programming providers without the need to enter their child's password limited to a particular programming provider", where the Examiner has thus shown that only the parents have the master password and the child has a subordinate (non-master) password, even though the Examiner has incorrectly equated programming provider to a channel(s), e.g., HBO) and not to the definition essentially provided throughout the Applicants' specification.

Moreover, the Examiner's position is not supported by Knowles. For example, the cited portion of Knowles, namely paragraph [0071] thereof, discloses the following:

Moreover, parental control blocking criteria by a user (with master password) influences other user's viewing of the programs. For example, if a first user attempts to view a program that meets a blocking criterion set by a second user (with master password), the program will be blocked and the first user will be prevented from viewing the program.

Further, in paragraph [0072] of Knowles, the following is disclosed:

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

The multiple IPGs support a hierarchy of multiple user passwords. For example, in a household, the parents may have the highest level of password (a master password), the teenager may have a second level password, and the younger children may have lower levels of passwords. A user with a higher level password may override the changes made by users with lower level passwords. A user with a master password can override the changes made by all other users (emphasis added).

Hence, from the preceding portions of Knowles, it is clear that Knowles discloses a single master password in a hierarchy of passwords. Moreover, it is respectfully asserted that the remaining references do not cure the deficiencies of Knowles, and are silent with respect to the above recited limitations of Claim 20.

Accordingly, Claim 20 is patentably distinct and non-obvious over the cited references for at least the reasons set forth above. Therefore, withdrawal of the rejection and allowance of Claim 20 is earnestly requested.

CUSTOMER NO.: 24498

PATENT

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

D. Conclusion

At least the above-identified limitations of the pending claims are not disclosed or suggested by the teachings of the cited references. Accordingly, it is respectfully requested that the Board reverse the rejections of Claim 1-15 and 17-20 under 35 U.S.C. §103(a).

Please charge the amount of \$500.00, covering fee associated with the filing of the Appeal Brief, to **Thomson Licensing Inc., Deposit Account No. 07-0832**. In the event of any non-payment or improper payment of a required fee, the Commissioner is authorized to charge **Deposit Account No. 07-0832** as required to correct the error.

Respectfully submitted,

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CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

8. CLAIMS APPENDIX

1. (Previously Presented) Apparatus for integrating passwords for accessing programming from multiple programming providers, the apparatus comprising:

a memory for storing a first password associated with a first programming provider that directly delivers programming to the apparatus via a first transmission media;

removable memory storing a second password associated with a second programming provider that directly delivers programming to the apparatus via a second transmission media distinct from the first transmission media;

temporary memory temporarily storing said first password during use; and

means for replacing, responsive to an insertion of the removable memory, said first password in said temporary storage with said second password to enable said apparatus to allow access to programming from said first and second programming providers,

wherein the apparatus is disposed locally with respect to a consumption location of the programming by a user.

2. (Original) The apparatus of claim 1 wherein the first and second password each comprise a master password.

3. (Original) The apparatus of claim 2 wherein said first password and second password each further comprises a sub-profile password.

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

4. (Original) The apparatus of claim 1 wherein said removable memory is a smart card.
5. (Previously Presented) A method for accessing programming from multiple programming providers in an integrated television system, the method comprising:
- determining whether an access card is coupled to the integrated television system;
 - if said access card is coupled to the integrated television system, processing a first password received from said access card to access programming directly delivered by said multiple programming providers to the integrated television system via different transmission media such that each of the multiple programming providers uses a respective different one of the different transmission media to directly deliver the programming to the integrated television system; and
 - if said access card is not coupled to the integrated television system, processing a second password to access at least some of the programming delivered to the integrated television system via at least one of the transmission media and precludes access to programming delivered to the integrated television system via at least one other of the transmission media.
6. (Original) The method of claim 4 wherein each of the first and second passwords each comprises a master password.
7. (Original) The method of claim 6 wherein at least one of the first and second passwords further comprises a sub-profile password.

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

8. (Previously Presented) The method of claim 5 further comprising writing said second password to temporary storage for use when the access card is not coupled to the integrated television system; and

overwriting said second password in temporary storage with said first password when said access card is coupled to the integrated television system.

9. (Original) The method of claim 5 further comprising validating said access card before using said first password.

10. (Previously Presented) The apparatus of Claim 1, further comprising:

a first antenna for receiving signals from the first programming provider via the first transmission media; and,

a second antenna for receiving signals from the second programming provider via the second transmission media.

11. (Previously Presented) The method of Claim 5, further comprising:

receiving signals from a first antenna corresponding to a first of said multiple programming providers; and,

CUSTOMER NO.: 24498
Attorney Docket No. RCA89642
Final Office Action Dated: May 27, 2008
Advisory Action Dated: August 13, 2008

PATENT

receiving signals from a second antenna corresponding to a second of said multiple programming providers.

12. (Previously Presented) A television apparatus, comprising:

a receiver configurable to directly receive programming from first and second programming providers via a first transmission media and a second transmission media distinct from the first transmission media, respectively;

processing circuits, coupled to the receiver, that process television signals received by the receiver and provide output signals;

an access card interface for receiving an access card;

a controller, coupled to the access card interface, that determines whether the access card is coupled to the access card interface; and

a memory for storing a first password associated with the first programming provider, wherein the controller, upon determining that the access card is not coupled to the access card interface, causes the processing circuits to use the first password to access programming from the first programming provider, and upon determining that the access card is coupled to the access card interface, downloads a second password from the access card and causes the processing circuits to use the second password to access programming from both the first and second programming providers.

13. (Original) The apparatus of claim 12, wherein the first and second passwords each comprise a master password.

CUSTOMER NO.: 24498**PATENT****Attorney Docket No. RCA89642****Final Office Action Dated: May 27, 2008****Advisory Action Dated: August 13, 2008**

14. (Original) The apparatus of claim 13, wherein the first and second passwords each further comprises a sub-profile password.

15. (Original) The apparatus of claim 12, wherein the access card comprises a smart card.

16. (Cancelled).

17. (Previously Presented) The apparatus of claim 12, wherein programming associated with the first programming provider is directly received via a cable connection, and programming associated with the second programming provider is directly received via an over the air transmission.

18. (Previously Presented) The apparatus of Claim 12, wherein the receiver receives programming from the first programming provider via a satellite network, and the receiver receives programming from the second programming provider via a terrestrial network.

19. (Previously Presented) The apparatus of Claim 1, wherein the first transmission media comprises a satellite network and the second transmission media comprises a terrestrial network.

20. (Previously Presented) The apparatus of Claim 5, wherein the first password is a master password associated with a satellite transmission media and the second password is a master

CUSTOMER NO.: 24498

PATENT

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

password associated with a terrestrial transmission media.

CUSTOMER NO.: 24498

PATENT

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

9. RELATED EVIDENCE APPENDIX

None.

CUSTOMER NO.: 24498

PATENT

Attorney Docket No. RCA89642

Final Office Action Dated: May 27, 2008

Advisory Action Dated: August 13, 2008

10. **RELATED PROCEEDINGS APPENDIX**

None